



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0535

Introduced 01/27/05, by Rep. Patricia Reid Lindner

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1041

from Ch. 34, par. 5-1041

55 ILCS 5/5-1042

from Ch. 34, par. 5-1042

Amends the Counties Code. Allows a county to impose a development impact fee by ordinance, resolution, or development agreement to: undertake capital developments or capital improvements; acquire land; make improvements to the county highway system, buildings, or other property; acquire equipment; or pay for additional personnel. Sets forth considerations in determining the amount of the impact fee, such as: the share of costs that are specifically and uniquely attributable to the new development or subdivision; the demand for land, capital development, capital improvement, equipment, or personnel generated by the development or subdivision; and the direct and material benefit to the development or subdivision. Requires that the impact fee be deposited into interest bearing accounts designated solely for the approved purposes for each school district, park district, library district, or fire protection district located in the county that is affected by the new development or subdivision. Provides that the county is accountable to each of those units of local government for the expenditure of those moneys. Makes other changes. Effective immediately.

LRB094 06461 AJO 36549 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning counties.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing  
5 Sections 5-1041 and 5-1042 as follows:

6 (55 ILCS 5/5-1041) (from Ch. 34, par. 5-1041)

7 Sec. 5-1041. Maps, plats and subdivisions; impact fees.

8 (a) A county board may prescribe, by resolution or  
9 ordinance, reasonable rules and regulations governing the  
10 location, width and course of streets and highways and of  
11 floodplain, stormwater and floodwater runoff channels and  
12 basins, any land acquisition under subsection (b), and the  
13 provision of necessary public grounds for fire protection,  
14 schools, public libraries, parks or playgrounds, and the county  
15 government in any map, plat or subdivision of any block, lot or  
16 sub-lot or any part thereof or any piece or parcel of land, not  
17 being within any city, village or incorporated town. The rules  
18 and regulations may include such reasonable requirements with  
19 respect to water supply and sewage collection and treatment as  
20 may be established by the Environmental Protection Agency, and  
21 such reasonable requirements with respect to floodplain and  
22 stormwater management as may be established by the County  
23 Stormwater Management Committee established under Section  
24 5-1062 of this Code, and such reasonable requirements with  
25 respect to street drainage and surfacing as may be established  
26 by the county engineer or superintendent of highways and which  
27 by resolution shall be deemed to be the minimum requirements in  
28 the interest of the health, safety, education and convenience  
29 of the public of the county; and may provide by resolution that  
30 the map, plat or subdivision shall be submitted to the county  
31 board or to some officer to be designated by the county board  
32 for its ~~their~~ or his or her approval. The county board shall

1 have a qualified engineer make an estimate of the probable  
2 expenditures necessary to enable any person to conform with the  
3 standards of construction established by the board pursuant to  
4 the provisions of this Section. Except as provided in Section 3  
5 of the Public Construction Bond Act, each person who seeks the  
6 county board's approval of a map, plat or subdivision shall  
7 post a good and sufficient cash bond, irrevocable letter of  
8 credit, surety bond, or other adequate security with the county  
9 clerk, in a penal sum sufficient to cover the estimate of  
10 expenditures made by the estimating engineer. The cash bond,  
11 irrevocable letter of credit, surety bond, or other adequate  
12 security shall be conditioned upon faithful adherence to the  
13 rules and regulations of the county board promulgated pursuant  
14 to the authorization granted to it by this Section or by  
15 Section 5-1062 of this Code, and in such cases no such map,  
16 plat or subdivision shall be recorded ~~entitled to record~~ in the  
17 proper county or have any validity until it has been so  
18 approved. If the county board requires a cash bond, letter of  
19 credit, surety, or any other method to cover the costs and  
20 expenses and to insure completion of the requirements, the  
21 requirements shall be subject to the provisions of Section  
22 5-1123 of this Code. This Section is subject to the provisions  
23 of Section 5-1123.

24 The county board may, by resolution, provide a schedule of  
25 fees sufficient to reimburse the county for the costs incurred  
26 in reviewing such maps, plats and subdivisions submitted for  
27 approval to the county board. The fees authorized by this  
28 Section are to be paid into the general corporate fund of the  
29 county by the party desiring to have the plat approved.

30 For purposes of implementing ordinances regarding  
31 developer donations or impact fees and only for the purpose of  
32 expenditures thereof, "public grounds for schools" is defined  
33 as including land or site improvements, which include school  
34 buildings or other infrastructure necessitated and  
35 specifically and uniquely attributable to the development or  
36 subdivision in question. This amendatory Act of the 93rd

1 General Assembly applies to all impact fees or developer  
2 donations paid into a school district or held in a separate  
3 account or escrow fund by any school district or county for a  
4 school district.

5 No officer designated by a county board for the approval of  
6 plats shall engage in the business of surveying, and no map,  
7 plat or subdivision shall be received for record or have any  
8 validity which has been prepared by or under the direction of  
9 such plat officer.

10 It is the intention of this amendatory Act of 1990 to  
11 repeal the language added to Section 25.09 of "An Act to revise  
12 the law in relation to counties", approved March 31, 1874, by  
13 P.A. 86-614, Section 25.09 of that Act being the predecessor of  
14 this Section.

15 (b) A county board may impose a development impact fee on a  
16 developer that is undertaking a residential, commercial, or  
17 industrial project that is being newly constructed,  
18 reconstructed, redeveloped, enlarged, or otherwise developed  
19 and that will generate additional demands for services from the  
20 county or a school district, park district, library district,  
21 or fire protection district located in the county. A county  
22 board may impose an impact fee by ordinance, resolution, or  
23 development agreement. A county board may impose an impact fee  
24 for the county or an affected school, park, library, or fire  
25 protection district for: acquisition of land; capital  
26 developments; capital improvements to the county highway  
27 system; capital improvements to buildings or other real  
28 property; acquisition of equipment; or additional personnel.

29 An impact fee payable by a developer may not exceed a  
30 proportionate share of the costs incurred or the costs that  
31 will be incurred by the county or a school, park, library, or  
32 fire protection district that are specifically and uniquely  
33 attributable to the new development or subdivision. The county  
34 must work with and include representatives of school, park,  
35 library, and fire protection districts that are affected by the  
36 development or subdivision in determining development impact

1 fees to be assessed on behalf of the county and the districts.  
2 In calculating the amount of an impact fee under this Section,  
3 the county must consider, without limitation, for the county  
4 and the affected school, park, library, or fire protection  
5 districts (i) the demand for land, capital developments,  
6 capital improvements, equipment, or personnel generated by the  
7 development or subdivision (ii) the direct and material benefit  
8 to the development or subdivision because of the land, capital  
9 development, capital improvement, equipment, or personnel that  
10 will be financed by the impact fee, and (iii) the acreage and  
11 the value of the acreage required for a capital development or  
12 capital improvement.

13 All development impact fees collected under this Section  
14 shall be deposited into interest bearing accounts designated  
15 for each unit of local government affected by the new  
16 development for one or more of the authorized purposes.  
17 Interest earned shall be deposited into the account. The county  
18 is accountable to each of those units of local government for  
19 the expenditure of those moneys.

20 (Source: P.A. 92-479, eff. 1-1-02; 93-330, eff. 7-24-03.)

21 (55 ILCS 5/5-1042) (from Ch. 34, par. 5-1042)

22 Sec. 5-1042. Maps, plats and subdivisions and impact fees  
23 in certain counties.

24 (a) In any county with a population not in excess of  
25 500,000 located in the area served by the Northeastern Illinois  
26 Metropolitan Planning Commission, a county board may establish  
27 by ordinance or resolution of record reasonable rules and  
28 regulations governing the location, width and course of streets  
29 and highways, any land acquisition under subsection (b), and  
30 the provision of public grounds for fire protection, schools,  
31 parks or playgrounds, and the county government in any map,  
32 plat or subdivision of any block, lot or sub-lot or any part  
33 thereof or any piece or parcel of land in the county, not being  
34 within any city, village or incorporated town in the county  
35 which rules and regulations may include such reasonable

1 requirements with respect to water supply and sewage collection  
2 and treatment, and such reasonable requirements with respect to  
3 street drainage and surfacing, as may be established by the  
4 county board as minimum requirements in the interest of the  
5 health, safety and convenience of the public of the county; and  
6 may require by ordinance or resolution of record that any map,  
7 plat or subdivision shall be submitted to the county board or  
8 some officer to be designated by the county board for its or  
9 his approval in the manner provided in Section 5-1041, and to  
10 require bonds and charge fees as provided in Section 5-1041.  
11 This Section is subject to the provisions of Section 5-1123.

12 For purposes of implementing ordinances regarding  
13 developer donations or impact fees and only for the purpose of  
14 expenditures thereof, "public grounds for schools" is defined  
15 as including land or site improvements, which include school  
16 buildings or other infrastructure necessitated and  
17 specifically and uniquely attributable to the development or  
18 subdivision in question. This amendatory Act of the 93rd  
19 General Assembly applies to all impact fees or developer  
20 donations paid into a school district or held in a separate  
21 account or escrow fund by any school district or county for a  
22 school district.

23 (b) A county board may impose a development impact fee on a  
24 developer that is undertaking a residential, commercial, or  
25 industrial project that is being newly constructed,  
26 reconstructed, redeveloped, enlarged, or otherwise developed  
27 and that will generate additional demands for services from the  
28 county or a school district, park district, library district,  
29 or fire protection district located in the county. A county  
30 board may impose an impact fee by ordinance, resolution, or  
31 development agreement. A county board may impose an impact fee  
32 for the county or an affected school, park, library, or fire  
33 protection district for: acquisition of land; capital  
34 developments; capital improvements to the county highway  
35 system; capital improvements to buildings or other real  
36 property; acquisition of equipment; or the cost of additional

1 personnel.

2 An impact fee payable by a developer may not exceed a  
3 proportionate share of the costs incurred or the costs that  
4 will be incurred by the county or a school, park, library, or  
5 fire protection district that are specifically and uniquely  
6 attributable to the new development or subdivision. The county  
7 must work with and include representatives of school, park,  
8 library, and fire protection districts that are affected by the  
9 development or subdivision in determining development impact  
10 fees to be assessed on behalf of the county and the districts.  
11 In calculating the amount of an impact fee under this Section,  
12 the county must consider, without limitation, for the county  
13 and the affected school, park, library, or fire protection  
14 districts (i) the demand for land, capital developments,  
15 capital improvements, equipment, or personnel generated by the  
16 development or subdivision (ii) the direct and material benefit  
17 to the development or subdivision because of the land, capital  
18 development, capital improvement, equipment, or personnel that  
19 will be financed by the impact fee, and (iii) the acreage and  
20 the value of acreage required for a capital development or  
21 capital improvement, and (iv) the value of each acre of land.

22 All development impact fees collected under this Section  
23 shall be deposited into interest bearing accounts designated  
24 for each unit of local government affected by the new  
25 development for one or more of the authorized purposes.  
26 Interest earned shall be deposited into the account. The county  
27 is accountable to each of those units of local government for  
28 the expenditure of those moneys.

29 (Source: P.A. 93-330, eff. 7-24-03.)

30 Section 99. Effective date. This Act takes effect upon  
31 becoming law.